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First report of the Secretary-General pursuant to paragraph 6 of resolution 1956 (2010)

I. Introduction

1. The present report is submitted pursuant to paragraph 6 of Security Council resolution 1956 (2010), in which the Council requested me to provide written reports to it on an ongoing basis, every six months, with the first report due no later than 1 January 2012, about the United Nations Compensation Fund, evaluating continued compliance with the provisions of paragraph 21 of resolution 1483 (2003).

II. Assessment following the 30 June 2011 transition to a post-Development Fund mechanism

2. It is recalled that in the 29 April 2011 report of the Government of Iraq to the Security Council pursuant to paragraph 4 of resolution 1956 (2010) on progress towards the transition to a post-Development Fund for Iraq mechanism (S/2011/290), the Government of Iraq confirmed that it would continue to use the same mechanism established pursuant to resolution 1483 (2003) for the transfer of the 5 per cent of the proceeds from all export sales of petroleum, petroleum products and natural gas from Iraq to the Compensation Fund because it considered the mechanism to be transparent and because it would ensure that Iraq would be able to continue to meet its obligations as provided for in paragraph 21 of resolution 1483 (2003). The Government of Iraq also reported that it would consult the United Nations Secretariat on in kind payments of export sales of petroleum, petroleum products and natural gas from Iraq, with a view to finding a transparent mechanism to ensure that the equivalent of 5 per cent of such transactions is deposited into the Compensation Fund pursuant to paragraph 3 of resolution 1956 (2010).

3. As the authority for the arrangements ensuring that payments are made to the Compensation Fund, the Governing Council of the United Nations Compensation Commission has been actively monitoring the developments following the expiration of the mandate of the International Advisory and Monitoring Board for Iraq on 30 June 2011 and the transfer of the oversight of the control, reporting and use of Iraqi oil export revenues to the Iraqi Committee of Financial Experts.

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4. At the meeting between the Executive Head of the secretariat of the Compensation Commission, the Controller of the United Nations and the Committee of Financial Experts in early July 2011, the Head of the Committee reaffirmed that the arrangements for the transfer of 5 per cent of the proceeds from all export sales of petroleum, petroleum products and natural gas from Iraq would remain unchanged. The issue of non-monetary payments of export sales of petroleum, petroleum products and natural gas from Iraq was also discussed, and both the Executive Head and the Controller stressed that if Iraq will be engaging in such transactions, a proper accounting mechanism must be put in place to ensure that 5 per cent of the value of such transactions is recorded and an equivalent amount transferred to the Compensation Fund. The Compensation Commission reiterated this position on 24 August 2011 in response to an enquiry from the Government of Iraq, and again on 20 October 2011, in a letter to the Committee of Financial Experts following the seventy-second session of the Governing Council. The Commission is awaiting confirmation from the Committee of Financial Experts that such a mechanism has been put in place.

5. With regard to the issue of arrangements for ensuring that payments are made to the Compensation Fund, the Governing Council of the Compensation Commission noted with satisfaction, at the conclusion of its seventy-second session in October 2011, that since the transfer of the oversight function to the Government of Iraq, there has been no change in the mechanism and that payments continue to be transferred to the Compensation Fund through the Federal Reserve Bank of New York. The Governing Council also directed the Executive Head to continue to regularly engage with the Committee of Financial Experts regarding all payment and accounting mechanisms and to keep the Governing Council advised of any developments.

6. Prior to the transfer of the oversight function from the International Advisory and Monitoring Board for Iraq to the Committee of Financial Experts, the average monthly income to the Compensation Fund for the first half of 2011 was $319.3 million. The average monthly income for the five months following the transfer was $341 million, with a total of $1.3 billion transferred in the quarter following the transition and approximately $1 billion expected in the final quarter of 2011. Since the transition, the Compensation Commission has made two payments to Kuwait of more than $1 billion each; the first was made on 28 July 2011 and the second on 27 October 2011. The next payment is scheduled for 26 January 2012.

7. While all the indicators are positive and suggest that the Government of Iraq is compliant with its obligations under paragraph 21 of resolution 1483 (2003), only after an audit has been conducted on the successor account to the Development Fund for Iraq will it be possible to confirm this conclusion. In this regard, it is noted that the Committee of Financial Experts has appointed the firm of Ernst & Young to conduct the 2011 audit of the Development Fund for Iraq and its successor account.

8. I would like to conclude by expressing my appreciation to the Government of Iraq, including its Committee of Financial Experts, for its maintenance of the mechanism for the transfer of the 5 per cent of oil proceeds established pursuant to resolution 1483 (2003) and its continued cooperation with the Compensation Commission.